

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PRENTICE E. NEAL,	:	CIVIL ACTION NO. <b>1:CV-11-2272</b>
	:	
Plaintiff	:	(Judge Caldwell)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
FSS CONNIE LENEAR, et al.,	:	
	:	
Defendants	:	

**REPORT AND RECOMMENDATION**

**I. Background.**

On December 8, 2011, a civil rights Complaint pursuant to 42 U.S.C. § 1983 was filed by an inmate purporting to be “Prentice E. Neal,” Inmate Number HZ 4507, State Correctional Institution at Dallas, Pennsylvania (“SCI-Dallas”). (Doc. 1). The typewritten Complaint was submitted on a form Section 1983 civil rights complaint which is routinely provided to prisoners. A Motion for Leave to Proceed *in forma pauperis* and Prisoner Authorization were filed simultaneously with the Complaint. (Docs. 2 and 3).

On December 9, 2011, the Court issued an Administrative Order directing the Superintendent of SCI-Dallas to furnish the Court with a certified copy of Plaintiff’s inmate statement and to remit from the prisoner’s account, in monthly installments, the full \$350.00 filing fee. (Doc. 6).

On December 13, 2011, we issued an order construing Plaintiff’s Motion for Leave to Proceed *in forma pauperis* as a motion to proceed without full prepayment of fees and costs,

granting said motion, and directing service of Plaintiff's Complaint. (Doc. 7). Summons was issued on the same date.

On December 15, 2011, a letter was filed by inmate "Prentice Nail" which states as follows:

I am writing concerning the civil action case filed in my name Case Number 1:11-CV-2272. I in no-way filed this case/civil action. The name this is filed in is Prentice Neal ID Number HZ4507. My name is Prentice Nail. I will put my signature on this letter to compare with any signature that may be on any of the papers fieled (sic) to start this civil action case. The person filed this to cause me some financial hardships. His name is Carl Lane - AS 1293. You may want to seek legal actions against this inmate.

I am not the first person in this prison that Carl Lane AS 1293 has done this to in this facility.

I would appreciate the cancellation of this civil action case and the cancellation of any monies to be deducted from my account.

(Doc. 8).

## **II. Discussion.**

On December 19, 2011, the Chambers of the undersigned contacted the Records Department at SCI-Dallas and verified that the inmate at that institution with register number HZ4507 is "Prentice Nail," and not "Prentice Neal," the name signed on the Complaint. Also, a comparison of the signatures on the Doc. 8 letter and the other documents filed in this action (Docs. 1, 2 and 3) appears to support Mr. Nail's contention that the signatures do not match and are not his on the Court filings.

On December 21, 2011, we issued an Order and vacated the Docs. 6 and 7 Orders. (Doc. 9).

We will therefore recommend that the Court construe the Doc. 8 letter of inmate Prentice Nail as a Notice of Dismissal pursuant to Fed.R.Civ.P. Rule 41(a)(1)(A)(i), and that the Court give effect to the Notice of Dismissal and dismiss this case.

**III. Recommendation.**

Based upon the foregoing, it is respectfully recommended that the Doc. 8 letter of inmate Prentice Nail be construed as a Notice of Voluntary Dismissal pursuant to Fed.R.Civ.P. 41(a)(1)(A)(i), and that this case be dismissed.

s/ Thomas M. Blewitt  
**THOMAS M. BLEWITT**  
**United States Magistrate Judge**

**Dated: December 21, 2011**

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	:	
FSS CONNIE LENEAR, et al.,	:	
	:	
Defendants	:	

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the undersigned has entered the foregoing  
**Report and Recommendation** dated **December 21, 2011**.

Any party may obtain a review of the Report and Recommendation pursuant to  
Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the

magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

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**s/ Thomas M. Blewitt**  
**THOMAS M. BLEWITT**  
**United States Magistrate Judge**

**Dated: December 21, 2011**